

REMARKS

Claim 1 as amended is essentially of the same scope as Claim 2, which was pending in the application as examined. As amended Claim 1 covers an aqueous suspension comprising β -cyfluthrin which is available in solid form. In view of this amendment, Applicants hereby cancel Claim 2. Presented more fully hereunder is a discussion of reason why the amended claim avoids or overcomes the claim rejection. The rejection is stated at page 2, paragraph 5 of the Office Action as follows:

"Applicants argue the actives are not solid; instant p.3 shows preferred pyrethroids include cypermethrin. Example of Ackerman uses cypermethrin. Applicants should show how applicants' cypermethrin is solid, while Ackerman's is not, see p. 6 of Ackerman; the carrier is coated with pyrethroid. The instant invention as claimed.

Applicant's arguments filed 4/1/01 and 2/23/01 have been fully considered but they are not persuasive. Applicant's arguments an discussion of 6/6/01, of the general concept of the invention versus the prior art, is not persuasive -- examiner finds the specification provides for a mix of pyrethroid with carrier, rather than a solid pyrethroid coating a carrier particle -- that's what Ackerman provides."

In amending the claims to recite β -cyfluthrin, which is in the form of a solid, the amended claims avoid or overcome the prior art, particularly Ackerman, for which the solid form is unsuitable.

Further augmenting the case for patentability are the distinctions and advantages of the claimed invention over the prior art were discussed in the Applicants' response of 6/6/01, which is hereby incorporated by reference. Briefly stated the prior art, Ackerman, would have failed to lead the skilled artisan to the claims because the solid form of β -cyfluthrin would not be soluble in emulsifying agents employed by Ackerman. As such, Ackerman would not have led the skilled artisan to β -cyfluthrin, let alone the aqueous suspensions containing the same.

The following advantages of the claimed invention over prior art rebut a presumption of unpatentability. By the claimed invention one obtains suspensions which are stable, readily dispersible, environmentally friendly and cost-effective suspension. Formulations of these suspensions are particularly suitable for

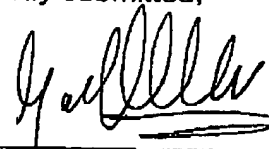
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preparing spray liquids for professional use in controlling pests in households, industrial building and building for livestock.

In light of the foregoing amendments, and discussions showing the distinction and advantages of the claimed invention, Applicants submit that the claims are patentably distinct and therefore pray for their allowance.

Respectfully submitted,

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Marked up version showing changes to application

IN THE CLAIMS:

Claim 1 (thrice amended) An aqueous suspension of insecticidally active compounds comprising:

- a) 0.1 to 12.5% of an active compound in the form of a solid β -cyfluthrin applied as a coating to an inorganic carrier having a particle size of 1 to 30 μm ,
- b) 2.5 to 10% auxiliaries,
- c) 62.5 to 97.4% of water,
- d) 0 to 15% of glycerol,

the percentages are % by weight of the suspension.

Please cancel Claim 2

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